

SENATE BILL REPORT

SB 5075

As Reported by Senate Committee On:
Financial Institutions, Housing & Insurance, January 19, 2011

Title: An act relating to the expiration dates of the mortgage lending fraud prosecution account and its revenue source.

Brief Description: Changing the expiration dates of the mortgage lending fraud prosecution account and its revenue source.

Sponsors: Senators Fain, Hobbs, Benton, Litzow, Keiser and Tom; by request of Department of Financial Institutions.

Brief History:

Committee Activity: Financial Institutions, Housing & Insurance: 1/19/11 [DP].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Majority Report: Do pass.

Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton, Ranking Minority Member; Fain, Haugen, Keiser and Litzow.

Staff: Alison Mendiola (786-7483)

Background: In 2003 the Legislature created the Mortgage Lending Fraud Prosecution Account (Account), a specific fund to aid in the prosecution of consumer fraud in the mortgage lending process. In 2006 the Legislature reauthorized the Account until June 30, 2011.

The Account is administered by the Department of Financial Institutions (DFI). Funds for the Account are generated by a \$1 surcharge, assessed at the recording of a deed of trust. In order to defray the costs of collection, the county auditor may retain up to 5 percent of the funds collected. Once collected by a county, the funds must be transferred monthly to the State Treasurer who, in turn, must deposit the funds into the Account. The DFI can use the Account to reimburse county prosecutors and the Attorney General for costs related to the investigation and prosecution of mortgage fraud cases. Reimbursable items include training costs for investigators and prosecutors and expenses related to investigation and litigation. County prosecutors may even seek recovery of salaries for members of their staff who were assigned to the prosecution of a particular case. The Director of the DFI, or designee, may

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authorize expenditures from the Account. The DFI is required to consult with the Attorney General and local prosecutors in developing guidelines for the distribution of the funds, which are to be used to enhance law enforcement capabilities at both the state and local level.

The DFI must make an annual report to the Legislature regarding the use of the funds in the Account.

Summary of Bill: The mortgage lending fraud prosecution account, the surcharge, and the report expire on June 30, 2016. An annual report to the Legislature is not required.

Appropriation: None.

Fiscal Note: Available.

[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect on June 29, 2011.

Staff Summary of Public Testimony: PRO: This account benefits both lenders and borrowers. A surcharge of \$1 on deeds of trust is a small price to pay for the bad acts. The prosecution ranges from the one person con artist to sophisticated rings of fraudsters. Some recent frauds include a number of people taking advantage of vacant bank-owned properties where a person poses as a landlord charges a prospective tenant first and last month's rent and then disappears with the money. Funds are used by prosecutors and the office of the attorney general. King County does a lot of prosecution however other counties are informed that funds are available for such prosecution.

Persons Testifying: PRO: Senator Fain, prime sponsor; Deborah Bortner, Department of Financial Institutions; David Seaver, King County Prosecutor's Office.